



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 20, 1995

Ms. Ann Diamond  
Assistant District Attorney  
Tarrant County  
Justice Center  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR95-1528

Dear Ms. Diamond:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37272.

Tarrant County (the "county") received a request for information concerning a juvenile and the injuries he received while at the county juvenile detention center. The requestor is an attorney who is representing the juvenile and his parents. You contend that the requested records are excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code.<sup>1</sup>

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). You inform us that since this request was made, litigation has commenced relating to the documents requested. In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a).

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<sup>1</sup>You indicate that you have notified the requestor that the county will release the juvenile's medical records if the requestor complies with the consent provisions of the Medical Practice Act. See V.T.C.S. art. 4495b, § 5.08, as amended by Act of May 28, 1995, ch. 856, §§ 4-7, 1995 Tex. Sess. Law Serv. 4290, 4293-95 (Vernon); Act of May 27, 1995, ch. 1039, § 71, 1995 Tex. Sess. Law Serv. 5145, 5169 (Vernon).

However, once information has been obtained by all parties to the litigation, no section 552.103(a) interest exists with respect to that information. Open Records Decision No. 349 (1982) at 2. We have marked the information that appears to have been seen by the opposing parties to the litigation and therefore, must be released to the requestor.<sup>2</sup> You may withhold under section 552.103 any records that the opposing party has not seen or had access to.<sup>3</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: ID# 37272

Enclosures: Marked documents

cc: Mr. Dwain Dent  
The Dent Law Firm  
1300 Summit Avenue, Suite 700  
Fort Worth, Texas 76102  
(w/o enclosures)

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<sup>2</sup>We note, however, that the information that the county intends to release, such as the medical records, and much of the other information that may have already been disclosed to the opposing party in litigation, may be protected from disclosure under section 552.101. In this instance, the requestor or his clients have a right of access to information that may not otherwise be disclosed to the general public. Therefore, if the county receives subsequent requests under the Open Records Act for these records, we urge the county to exercise caution before releasing the information. See Gov't Code § 552.352 (providing penalties for improper release of confidential information).

<sup>3</sup>Because we conclude that you may withhold much of the information under section 552.103 of the Government Code, we do not address your arguments under sections 552.101 and 552.108.